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Enclosure

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ARGENTINA: ASSESSMENT OF CURRENT HUMAN RIGHTS SITUATION

(C) Parameters and problems. The following assessment covers the Argentine government's 1978 performance and the current situation with respect to category-one human rights. Inevitably, efforts have been hampered somewhat by the US Government's limited capacity for monitoring human rights events in Argentina and verifying reports of either positive or negative developments.

(C) Imprecision is most clearly a problem with statistical material. Frankly stated, we do not know exactly how many people have been tortured or killed, how many are now being held prisoner, how many prisons are being used, etc. We are forced, in many cases, to reply upon estimates whose credibility stems from their relatively wide acceptance among groups interested in and informed upon Argentina human rights developments.

(C) We do not believe, however, that timely, precise and verifiable information would fundamentally alter the assessment offered below. The record of Argentine human rights events is sufficiently complete to produce a convincing cumulative picture of the government's performance. And while precise statistics might alter somewhat the quantitative dimensions of that picture, its qualitative aspects would remain unchanged.

(C) Current situation. With respect to category-one rights, conditions can be summarized as follows:

(C) -- Political prisoners: Approximately 2,900 persons purportedly guilty of security violations are being detained at the disposition of the national executive branch under state-of-siege powers provided for in the Argentine constitution (PEN prisoners).*

(C) *The current state of siege was instituted on November 6, 1974 by the Isabel Peron government. Under the state-of-siege, the national executive is empowered to detain prisoners indefinitely, but it can neither judge nor punish detainees. The Argentine courts ruled in 1977 and 1978 that the executive branch must cite specific causes for detention

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There are two other groups of prisoners, neither of which is publicly acknowledged by the government. One group is being held at the disposition of military authorities (DAM prisoners) and probably includes about 500 persons. According to Embassy Buenos Aires sources, most of these prisoners are either former terrorists now cooperating with security units or new detainees undergoing interrogation and not, therefore, listed as PEN detainees. The final group involves prisoners who have been selected for a rehabilitation program run by the security services. We have no reliable figures, but the program appears to be relatively small, encompassing at most a few hundred persons.

(C) No sustained official effort is being made to substantially reduce the number of political prisoners by (1) releasing those against whom there exists no evidence of terrorist or criminal involvement nor pending charges; (2) trying those charged with specific offenses; or (3) permitting political prisoners to exercise their constitutional rights to choose exile over imprisonment (right-of-option). The right-of-option program initiated inlate 1977 has resulted in few approvals of prisoner petitions for exile.

(C) There is little evidence to substantiate persistent rumors that thousands of political prisoners are being held in clandestine camps located throughout the country.

(C) -- Torture and prisoner mistreatment: Physical and psychological torture apparently remain standard treatment for alleged subversives, or persons believed to have information about subversion who refuse to cooperate with security

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in response to habeas corpus petitions covering PEN prisoners. However, the Executive does not always respond to court order. While we have little information that would permit categorizing detainees according to types of offenses, the PEN list probably includes few if any terrorists suspected of having committed violent acts against persons or property. Such individuals, when captured by security units, are routinely killed after interrogation. The alleged security violations of most of those listed as PEN detainees probably include such things as (a) non-violent actions undertaken in support of subversive (broadly defined to include action or teachings contrary to the military's conception of social order) groups, e.g., poster and pamphlet distribution and a variety

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officials. Torture generally occurs during interrogation, prior to official listing of a detainee as a PEN prisoner, or his or her summary execution. [redacted] 3.3(b)(1)

[redacted] 3.3(b)(1)

August that as many as 90 percent of PEN detainees were tortured during interrogation.(**) 6

(C) Prisoner treatment beyond the interrogation stage and after PEN listing appears to vary considerably depending upon such factors as the prisoner's alleged offense, the proclivities of the regional military commander, and the character of individual jailors. Reports of severe mistreatment (beatings, denial of adequate food, medical care, exercise, etc.) are most often associated with specific military jurisdictions and prisons, or with the transfer or release of prisoners. In at least five reasonably documented instances in early 1978, for example, prisoners released from a La Plata jail were immediately either murdered or kidnapped, presumably by security elements. Official actions appear to have prevented recurrences of this particular type of abuse, but in late 1978 an ICRC official reported to the Embassy his belief that prison conditions and prisoner treatment had deteriorated during the year. 7

(C) -- Disappearances: Reports of disappearances continue to accumulate. In the vast majority of cases, responsibility almost certainly lies with one of the many security units. In the absence of evidence of clandestine camps housing thousands of allegedly disappeared persons, most must be presumed dead.

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of other support activities; (b) economic actions perceived by the authorities as directly having supported subversion (the Graiver case) or otherwise endangered national interests; (c) affiliation with groups vaguely defined as "leftist"; or (d) actions that contributed to an intellectual-cultural environment conducive to the growth of "subversion" (herein lies the danger to journalists, writers, teachers, performing artists, etc.). Thus, the term "security violation" has no specific meaning. Its operative definition is largely left to the discretion of regional and local authorities with arrest powers.

(C) (**) Reports received from released prisoners tend to substantiate [redacted] observations on the frequency of torture.

3.3(b)(1)

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(U) Non-governmental human rights organizations tend to use the figure of 15, 000 for disappearances over the past 3-4 years. Argentine groups share that estimate and have presented the government with documentation on almost 5,000 cases. In truth, however, no one knows precisely how many people have disappeared or, in many cases, why specific individuals were victimized.

(C) Few who have disappeared since about mid-1977, and on whom we have any information, could be considered terrorists or security threats. With most terrorists either eliminated or living in exile, the security forces have made a significant shift in their targetting practices to draw into the security net a range of non-terrorists associated with the vague and expansively defined political left. The decision as to which specific individuals will be picked up is left to regional and local authorities and, therefore, depends upon the latter's perception of what kinds of activities constitute security threats. The victim's culpability may only have involved past membership in a group that was entirely legal at the time. Insofar as there is a discernible pattern, there has been a tendency toward the disappearance of persons with a common association past or present; e.g., graduates of the same high school or university faculty, members of a political party or youth group, etc. However, there are many cases that make no apparent sense and for which the explanation may lie more in internal politics than in any specific act of the victim.

(C) Public criticism of government policies has, with few known exceptions, generally not been considered by authorities as grounds for detaining the critics and abusing or killing them. Many politicians, labor leaders, businessmen, and other professionals have criticized the government's economic, political and human rights policies without suffering retribution at the hands of the security forces.

(C) There has been no significant official effort to collect and publish information on persons who allegedly have disappeared. When queried about disappearances by non-governmental organizations or foreign governments, the Argentines' standard response is "no information". The Argentine courts

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regularly accept habeas corpus petitions concerning alleged disappeared persons, but they have refused to accept jurisdiction in such cases.

(C) The Mothers of the Plaza de Mayo (relatives of disappeared persons) one of the most persistent and cohesive groups seeking information on disappeared persons, has recently been prohibited from conducting what had been a weekly Thursday vigil in front of Government House in downtown Buenos Aires. The demonstrations apparently had become too large and potentially disruptive in the judgment of government officials who do not intend to satisfy their demands for information. The Mothers are now holding their gatherings at smaller and less conspicuous sites.

(C) Given the diffusion of authority that has characterized the counterterrorist effort, it is highly unlikely that any government agency either has collected or will be able to collect definitive files on alleged disappearance cases. The various security units have an obvious interest in withholding or destroying information on cases for which their operatives have been responsible.

(C) "Reappearances" emerged as a new and possibly underreported facet of the human rights scene in 1978. There are no reliable figures, but the number of cases is probably quite small in relation to the reported number of disappearances. As of mid-September, the Embassy had received reports of 15 cases and by mid-November Argentine human rights groups placed the figure at over 100, with a UNHCR representative suggesting it might be as high as 300. During 1978, the government published 4 lists with the names of hundreds of persons who had allegedly reappeared. In most cases, however, the individuals appear to have been the subjects of regular "missing persons" cases. Their names did not appear on the lists of disappeared persons maintained by the Embassy and Argentine human rights organizations.

(C) -- Fair public trial. All who have been detained by official security agencies and subsequently disappeared have obviously been denied a fair public hearing of the charges against them.

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(C) Insofar as alleged security violators are charged and tried in civilian or military courts,*** there are two notable problems: the often extended period between detention and judicial processing and the reported predominance of convictions based on confessional evidence extracted through torture. Professional legal groups such as the ICJ intend to investigate the question of confessional evidence.

(C) -- Invasion of the home. The detention practices of operational counterterrorist units regularly involve illegal invasion of the home. In addition, there are numerous reports of arresting officers ransacking private residences and stealing the personal property of the detainee.

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(C) Trends. 1978 produced no substantial quantitative improvement or deterioration in category-one terms. The year featured a variety of positive and negative factors, but the net result was to leave the situation little changed.[2] Violations of category-one rights at the hands of official security personnel were frequent throughout the year, and there was no evidence of a concerted, effective government effort to halt the abuses.

(C) It is difficult to refine the trends analysis to reflect possible patterns of the incidence of certain kinds of abuses because the available statistical material is not always reliable. The question of disappearances provides a good example. In June 1978, Embassy Buenos Aires and Argentine human rights groups believed that disappearances during the first third of 1978 had declined in frequeny (about 15 per month) in comparison to 1977. By later in

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(C) *** The status of PEN prisoners with respect to judicial processing is quite complicated because a prisoner held under a PEN decree can simultaneously be processed on charges in civilian or military courts and, if convicted, serve and complete the imposed sentence. Perhaps half or more of the current PEN detainees are either being tried or have been sentenced by judicial authorities. This is significant because, among other reasons, PEN detainees who are under the concurrent jurisdiction of judicial authorities are not eligible to petition for exile under the right-of-option program.

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the year, however, additional information forced upward adjustments in the figures. Interior Ministry records showed a rate of 40 per month for January to October (as compared to 150 per month in 1977 and 250 per month in 1978) and a Foreign Ministry source placed the ten-month 1978 figure at about 80 per month. By November, the Embassy had reports of disappearances averaging about 34 per month for the January-April period. The Embassy has since concluded that a figure of 55 per month would be a reasonable estimate for 1978.

(C) On the basis of such evidence, the only conclusion that can be drawn is that disappearances occurred with relative frequency throughout the year with month-to-month variations reflecting tactical considerations rather than policy decisions. In essence, the situation changed little during 1978.[13] [11]

(S/NF/NC) Counterterrorism uncontrolled. The conclusion that conditions did not improve in 1978 is based, in part, on evidence that the security forces continued to operate without effective central control. Numerous reports during the year from a variety of intelligence sources stated that: [12]

-- President Videla and his moderate supporters were attempting to establish rigid command and control over security operations;

-- new orders had been issued with respect to conducting police and military operations within the bounds of the law; or

-- police and military operatives had been dismissed or disciplined for abuses.

(C) Some of the reported efforts were probably undertaken. Some improvements may well have occurred, particularly in areas under the jurisdiction of officers disposed toward reform. Nonetheless, at the close of 1978 it was apparent that counterterrorist actions were generally being conducted in accord with orders issued by regional and local military authorities who viewed themselves as unconstrained by the law or the directives of national authorities. In late October, an admiral with counterterrorist responsibilities in the Buenos Aires area stated to an Embassy officer that there was almost no central control over operational counterterrorist units.

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(C) The political context. The "dirty war" argument so frequently employed by Argentines to rationalize human rights abuses is no longer relevant. According to estimates drafted by the Argentine Federal Security Service in late 1978, there were only about 400 active terrorists in Argentina; no single group was estimated to have more than 245 resident activists, and no group was judged a serious and immediate security threat. High government officials, including President Videla, have repeatedly stated both publicly and privately that the "war" is over, i.e, that there is no continuing high-level internal security threat.

(C) The explanation for the continuing human rights abuses lies in armed forces, and especially army, politics rather than in internal security problems. The army is the predominant service, and its political heterogeneity is reflected in the conduct of government affairs. President Videla leads a group of military and civilian moderates who would prefer to see human rights abuses halted. Videla's priority concern, however, is to maintain the maximum degree of army and military unity, because the development of irreparable internal splits probably would spell his own quick demise and the end of the military's National Reorganization Process. Videla is not power hungry, but he is committed to the military government's reform program and believes his own role important. Thus, Videla's preferences give way to his long-term political goals when his preferences threaten military cohesion.

(C) In the case of human rights abuses, neither Videla nor any other significant military figure, has questioned the pre-March 1976 decision to physically eliminate hard core terrorists. Videla's differences with the so-called hardliners center on violations of the rights of non-terrorists. The hardliners are philosophically authoritarian and inclined to label a wide range of political activity and sentiment as subversive. They do not entirely share the moderates perception that the "war" against subversion is over.[4] Powerful corps commanders like Major General Carlos Guillermo Suarez Mason (formerly Commander, Corps I, Buenos Aires) and Major General Luciano Benjamin Menendez (Corps III, Cordoba) continued throughout 1978 to condone counterterrorist tactics that ensured human rights abuses.

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(C) Other factors that diminished Videla's chances of achieving human rights reforms in 1978 included his August retirement as an active-duty officer and Army Commander and

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a gradual increase in military and civilian disenchantment with the general economic and political performance of his government. Those conditions, plus the degree to which the Beagle Channel controversy with Chile dominated official attention during the last quarter of the year, created highly improbable circumstances for bold human rights initiatives on Videla's part.

(C) The results of the recent army promotion/reassignment cycle appear to offer mixed prospects for human rights reforms. Moderates politically in sympathy with Videla and Army Commander Viola now may be in a position to exert more effective control over the service. Particularly notable changes involved the following officers:

-- Suarez Mason has been shifted from his Corps I commander slot to Army Chief of Staff. His new post is a prestigious one from which he might be able to advance to the Commander in Chief's slot. Nonetheless, since he no longer has a troop command nor, more importantly, direct control over counterterrorist units, his promotion is probably a net short-term human rights gain.

-- Major General Leopoldo Fortunato Galtieri has replaced Suarez Mason as Corps I commander. Galtieri most recently commanded Corps II (Rosario) where he established a reputation for reasonableness and restraint in human rights matters. It has been in his geographic jurisdiction, for example, that the most progress has been registered with respect to the judicial processing of PEN prisoners. If he displays the same tendencies as Corps I Commander, he will be a needed improvement over Suarez Mason.

-- Major General Santiago Omar Riveros, another officer notorious for his permissive attitude toward human rights abuses, has been shifted from his sensitive Buenos Aires command (Military Institutes) to the Inter-American Defense Board.

-- Major General Jose Montes will replace Riveros. A Videla-Viola loyalist, Montes could combine with Galtieri to give the moderates the potential for curbing the abuses heretofore characteristic of

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counterterrorist operations in the Buenos Aires area.

-- Brig. General Juan Bautists Sassiain's appointment as Chief of the National Police is an ominous move in human rights terms. A counterterrorist expert, Sassiain is reputedly rough and cruel.

-- Major General Luciano B. Menendez, a fanatic on subversion who has condoned human rights violations by those under his command, remains the Corps III commander (Cordoba). Militarily, Menendez's retention may be attributable to the need for his services in the event of hostilities with Chile over the Beagle Channel. In human rights terms, however, it means that the situation in Cordoba is not liable to improve in the near future.

In all likelihood, the army command shifts will not result in immediate and drastic human rights improvements, but the political context appears to be more favorable than it has been since the March 1976 coup.[5] Much will depend upon whether the Videla-Viola tandem chooses to exercise the necessary leadership, and perhaps ultimately upon whether the Argentine public becomes sufficiently exercised over continuing abuses to demand change.

(C) IAHRC visit. From the Argentine government's perspective, the next critical human rights deadline is May 29 when the Inter-American Human Rights Commission (IAHRC) will begin a week-long on site investigation.

It is questionable, however, whether the prospect of the IAHRC visit will lead to fundamental changes in the tactics employed by the security forces and, thereby, open the way to long-term human rights advances. In this critical area, the army command changes probably offer more hope for reform than the IAHRC visit.[6]

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FOOTNOTES

1. HA Note: HA prefers the following wording for the text from sentence two of paragraph 1 through first sentence of paragraph 3.

"Although it is difficult to quantify precisely certain aspects of the situation - such as the exact number of people killed and tortured and the number being held in clandestine military camps - we receive a steady flow of detailed information from a wide variety of credible sources in Argentina about human rights events and conditions. These sources include our Embassy, [redacted] 3.3(b)(1) [redacted] 3.3(b)(1) [redacted] and Amnesty International, Argentine Government officials, Argentine human rights organizations, victims of arrest and torture, eyewitnesses to incidents of abduction and torture, and relatives of victims." 3.3(b)(1)

2. HA Note: No overall trend of improvement in category - one terms can be shown. There was substantial qualitative deterioration in at least two areas - the widening scope of the victims of disappearance, and the worsening of treatment of political detainees. The simple passage of time can also be viewed as a negative factor - another year of widespread violations long after any terrorist threat has passed.

3. HA Note: HA would again emphasize that despite uncertainties with quantitative material, the shift in targeting noted above is a significant negative development.

4. HA Note: However, Videla himself said last year that "A terrorist is not just someone with a gun or bomb but also someone who spreads ideas that are contrary to Western and Christian civilization" (Reported in the London Times, January 4, 1978). INR and ARA view the inclusion of this statement attributed by the press to Videla as potentially misleading when used in the above context. The

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quote invites the inference that Videla supports the application of extreme security measures against those who have not committed violent terrorist acts. There is no evidence to support that contention.

5. HA Note: The army command changes present a mixed picture from which it is not possible to conclude that the overall political context for human rights improvement is more favorable than in the past.

6. S/P and HA Note: S/P and HA would delete this last sentence because it contradicts the assessment that the command changes are "mixed".

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